

BMS Case No. _____

File No. _____

CHALLENGE OF FAIR SHARE FEE ASSESSMENT

The undersigned petitioner challenges the fair share fee being assessed by the exclusive representative, and requests the Bureau investigate the matter pursuant to applicable statutes and rule provisions. A copy of such statute and rules may be found on the reverse side of this form.

Name of Challenger(s): _____

Name of Challenger's Representative (if any): _____

Address: _____ Zip _____ Phone: () _____

Name of Exclusive Representative: _____

Name of Agent/Rep.: _____ Phone: () _____

Address: _____ Zip _____

Name of Employer: _____

Name of Employer Rep.: _____ Phone: () _____

Address: _____ Zip _____

Please check the appropriate box:

☐ I assert that the notice of fair share fee assessment is improper because: _____

☐ I assert the amount of the Fair Share Fee is improper because: (M.S. 179A.06, Subd. 3 provides that "All challenges must specify those portions of the fee challenged and the reasons for the challenge")

Amount of regular membership dues: _____ Amount of fair share fee assessment: _____

Date challenger received fair share fee notice: _____

A \$10.00 filing fee, in the form of a certified check payable to the Bureau of Mediation Services must accompany this challenge,

and

A copy of this challenge must be provided to the employer and exclusive representative named above at the time it is filed with the Bureau.

DATE: _____

SIGNED: _____

M.S. 179A.06, Subd. 3. Fair share fee. An exclusive representative may require employees who are not members of the exclusive representative to contribute a fair share fee for services rendered by the exclusive representative. The fair share fee must be equal to the regular membership dues of the exclusive representative, less the cost of benefits financed through the dues and available only to members of the exclusive representative. In no event may the fair share fee exceed 85 percent of the regular membership dues. The exclusive representative shall provide advance written notice of the amount of the fair share fee to the employer and to unit employees who will be assessed the fee. The employer shall provide the exclusive representative with a list of all unit employees.

A challenge by an employee or by a person aggrieved by the fee must be filed in writing with the commissioner, the public employer, and the exclusive representative within 30 days after receipt of the written notice. All challenges must specify those portions of the fee challenged and the reasons for the challenge. The burden of proof relating to the amount of the fair share fee is on the exclusive representative. The commissioner shall hear and decide all issues in these challenges.

The employer shall deduct the fee from the earnings of the employee and transmit the fee to the exclusive representative 30 days after the written notice was provided. If a challenge is filed, the deductions for a fair share fee must be held in escrow by the employer pending a decision by the commissioner.

Minn. Rules 5510.1410 FAIR SHARE FEE REQUIREMENTS.

Subpart 1. **Advance notice of fair share fee assessment.** The exclusive representative must provide written notice of the amount of the fair share fee assessment to the employer and each employee assessed: upon initial implementation of the fair share fee assessment; to employees hired after the original notice has been issued; and upon a change in the amount of the fair share fee assessment. The notice must contain:

- A. the name, address, and telephone number of the exclusive representative;
- B. the amount of the regular dues of the exclusive representative;
- C. the amount of the fair share fee assessment;
- D. sufficient information to identify expenditures for benefits available only to members of the exclusive representative and sufficient information to identify expenditures for collective bargaining and contract administration services that have been provided for bargaining unit employees without regard to membership status. This information shall include the most recent documentation of the preceding year's actual expenditures and of the current year's projected expenditures;
- E. the bureau's current mailing address; and
- F. a statement as follows: "An employee may challenge this assessment by filing a challenge with the Bureau of Mediation Services within 30 calendar days after receipt of this notice. The challenge must specify those portions of the assessment being contested and the reasons therefor, and copies of the challenge must be sent to your employer and this organization. The Public Employment Labor Relations Act requires a fee for filing challenges. Forms for challenges and a copy of the rules governing them are available from the bureau without charge."

Subp. 2. **Employer provided information.** Unless an alternate method of fair share notice procedure has been requested and approved by the commissioner, the employer shall provide to the exclusive representative the name, home mailing address, and social security number or other necessary payroll deduction information for all employees in the appropriate unit. Questions of necessary payroll deduction information shall be determined by the commissioner.

Subp. 3. **Mailing notice.** Unless an alternate method of fair share notice procedure has been requested and approved by the commissioner, the notice of the fair share fee assessment shall be mailed by the exclusive representative to the employee's last known home mailing address provided by the employer.

Subp. 4. **Assessment.** On the effective day of the fair share fee assessment and thereafter, the amount of the assessment shall be deducted by the employer from the pay of the employee. The initial amounts deducted must be held in escrow by the employer and not remitted to the exclusive representative for the period of 30 calendar days from the date notice is provided under subpart 1.

If at the end of the 30-day period an employee has not challenged the fair share fee assessment, subsequent assessments shall be promptly remitted to the exclusive representative.

If an employee challenges the fair share fee assessment, the assessment for that employee shall continue to be deducted, but must be held in escrow by the employer until otherwise ordered by the commissioner.

5510.1510 FAIR SHARE FEE CHALLENGE PETITION.

Subpart 1. **Filing petition.** A petition challenging a fair share fee assessment may be filed by individual employees and must include:

- A. the name, address, and phone number of the petitioner and agent, if any;
- B. the name, address, and phone number of the exclusive representative and agent, if any;
- C. the name, address, and phone number of the employer and agent, if any;
- D. the amount of regular membership dues in the unit;
- E. the amount of the fair share fee assessment;
- F. the specific activities or expenditures of the exclusive representative which the petitioner believes are not in conformance with the statutory prerequisites of Minnesota Statutes, section 179A.06, subdivision 3; and
- G. the date on which the petitioner received notice of the fair share fee assessment.

Subp. 2. **Filing petition.** A petition challenging the fair share fee assessment must be filed in person or by mail with the commissioner.

Subp. 3. **Filing fee.** The challenge petition must be accompanied by a certified check or other guaranteed form of payment in the amount of \$10, made payable to "Bureau of Mediation Services."

Subp. 4. **Receipt of petition.** Upon receipt of the challenge petition and fee, the commissioner shall provide the petitioner with an acknowledgment and receipt, along with a copy of the rules governing such challenge.

Subp. 5. **Service on exclusive representative and employer.** A copy of the challenge petition shall be served by the petitioner upon the exclusive representative and the employer, in person or by mail, within the 30 calendar-day challenge period. Failure to serve a copy of a challenge petition upon the exclusive representative or employer in a timely manner shall be grounds for dismissing the petition.

Subp. 6. **Computing time.** For purposes of computing time, a petition shall be considered filed on the day it is received by the commissioner.